

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 232

BY STATE AFFAIRS COMMITTEE

AN ACT

RELATING TO THE INSURANCE CONTRACT; AMENDING CHAPTER 18, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-1851, IDAHO CODE, TO DEFINE TERMS AND TO ESTABLISH THAT ANY NOTICE TO A PARTY OR ANY OTHER DOCUMENT REQUIRED UNDER APPLICABLE LAW IN AN INSURANCE TRANSACTION OR THAT IS TO SERVE AS EVIDENCE OF INSURANCE COVERAGE MAY BE DELIVERED, STORED AND PRESENTED BY ELECTRONIC MEANS SO LONG AS IT MEETS CERTAIN REQUIREMENTS, TO PROVIDE PROCEDURES AND TO PROVIDE APPLICATION.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Chapter 18, Title 41, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 41-1851, Idaho Code, and to read as follows:

41-1851. ELECTRONIC NOTICES AND DOCUMENTS. (1) In this section, the following words shall have the following meanings:

(a) "Delivered by electronic means" includes:

(i) Delivery to an electronic mail address at which a party has consented to receive notices or documents; or

(ii) Posting on an electronic network or site accessible via the internet, mobile application, computer, mobile device, tablet or any other electronic device, together with separate notice to a party directed to the electronic mail address at which the party has consented to receive notice of the posting;

(iii) Delivery or posting directly to a mobile device or other electronic device accessible by a party that has consented to conduct insurance transactions electronically.

(b) "Party" means any recipient of any notice or document required as part of an insurance transaction including, but not limited to, an applicant, an insured, a policyholder or an annuity contract holder.

(2) Pursuant to subsection (4) of this section, any notice to a party or any other document required under applicable law in an insurance transaction or that is to serve as evidence of insurance coverage may be delivered, stored and presented by electronic means so long as it meets the requirements of the uniform electronic transactions act, chapter 50, title 28, Idaho Code.

(3) Delivery of a notice or document in accordance with this section shall be considered equivalent to any delivery method required under applicable law, including: delivery by first class mail; first class mail, postage prepaid; certified mail; certificate of mail; or certificate of mailing.

(4) A notice or document may be delivered by electronic means by an insurer to a party under this section if the party has affirmatively consented to that method of delivery and has not withdrawn the consent.

1 (5) This section does not affect requirements related to content or
2 timing of any notice or document required under applicable law.

3 (6) If a provision of this title or applicable law requiring a notice
4 or document to be provided to a party expressly requires verification or ac-
5 knowledgment of receipt of the notice or document, the notice or document may
6 be delivered by electronic means only if the method used provides for veri-
7 fication or acknowledgment of receipt. In the absence of verification or ac-
8 knowledgment of receipt, the insurer shall mail a paper copy of the notice or
9 document within three (3) days via United States mail.

10 (7) The legal effectiveness, validity or enforceability of any con-
11 tract or policy of insurance executed by a party may not be denied solely
12 because of the failure to obtain electronic consent or confirmation of con-
13 sent of the party.

14 (8) (a) A withdrawal of consent by a party does not affect the legal ef-
15 fectiveness, validity or enforceability of a notice or document deliv-
16 ered by electronic means to the party before the withdrawal of consent
17 is effective.

18 (b) A withdrawal of consent by a party is effective within a reasonable
19 period of time after receipt of the withdrawal by the insurer.

20 (9) The provisions of this section do not apply to a notice or document
21 delivered by an insurer in an electronic form before the effective date of
22 this act to a party who, before that date, has consented to receive notice or
23 document in an electronic form otherwise allowed by law.

24 (10) If the consent of a party to receive certain notices or documents
25 in an electronic form is on file with an insurer before the effective date
26 of this act, and pursuant to the provisions of this section, an insurer in-
27 tends to deliver additional notices or documents to such party in an elec-
28 tronic form, then prior to delivering such additional notices or documents
29 electronically the insurer shall notify the party of:

30 (a) The notices or documents that may be delivered by electronic means
31 under this section that were not previously delivered electronically;
32 and

33 (b) The party's right to withdraw consent to have notices or documents
34 delivered by electronic means.

35 (11) (a) Except as otherwise provided by law, if an oral communication
36 or a recording of an oral communication from a party can be reliably
37 stored and reproduced by an insurer, the oral communication or record-
38 ing may qualify as a notice or document delivered by electronic means
39 for the purposes of this section.

40 (b) If a provision of this title or applicable law requires a signature
41 or notice or document to be notarized, acknowledged, verified or made
42 under oath, the requirement is satisfied if the electronic signature of
43 the person authorized to perform those acts, together with all other in-
44 formation required to be included by the provision, is attached to or
45 logically associated with the signature, notice or document.

46 (12) The provisions of this section may not be construed to modify,
47 limit or supersede the provisions of the federal electronic signatures in
48 global and national commerce act, P.L. 106-229, as amended.